

TO: Committee of Adjustments
FROM: Ben Boike, Assistant Comm. Dev. Dir.
DATE: July 19, 2016
SUBJECT: Case #16-02 (Cont. from May 17, 2016)



REQUEST

St. Paul Regional Water Services is requesting a Variance to reduce the minimum setback of an Essential Service Structure (pump house) from an abutting lot in a Residential District. The requested variance is required in order to construct an addition to the existing building in the proposed location. This request was originally reviewed at the May 17, 2016 Committee of Adjustments meeting. The item was continued as a result of the Committee's request for more information.

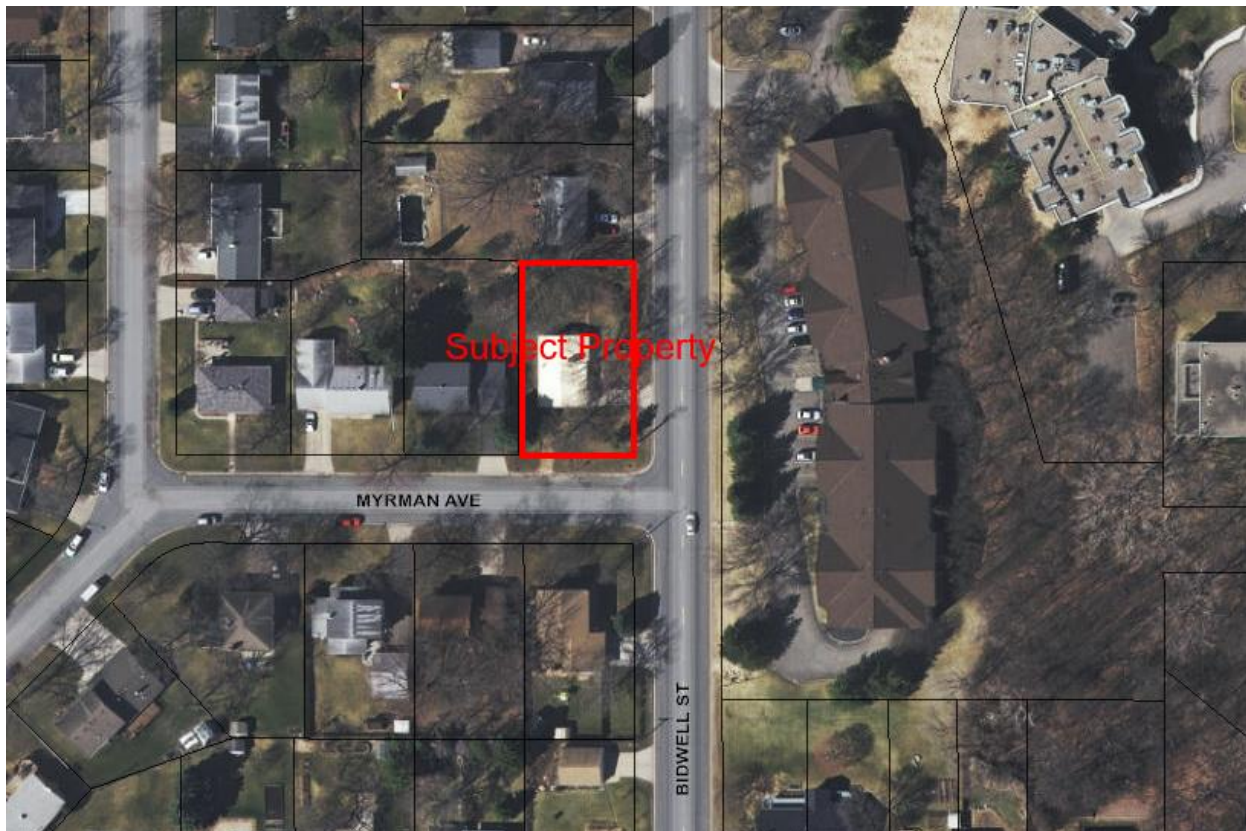
Attachments:

Draft Findings of Fact

Application (including requested noise level info)

Notice

Plans (including requested elevation drawings)



EXISTING LAND USES

The subject property consists of a pump station (in the form of a single-family home) for St. Paul Regional Water. Adjacent properties to the north, south and west consist of single family homes. The adjacent property to the east consists of an apartment building.

ZONING

The subject property and adjacent properties to the north, south and west are zoned R1, Single Family Residential. Adjacent properties to the east are zoned R4, Multiple Family Residential.

PROPOSAL

The applicant is proposing to expand the existing building in order to add an emergency generator. Per the attached submitted plans, the applicant is proposing an 11.5 ft. addition to the rear (west side) of the existing building. The resulting side yard setback is 5' 5/16" to the west property line. As the attached narrative states, over the past several years, power outages at the station have become more frequent and have the potential to interrupt water service to the community. The proposed generator would allow for water service to continue during future outages. Please see the attached narrative for more information regarding the need for the generator.

PREVIOUS DISCUSSION

At the May 17, 2016 Committee of Adjustments meeting, relatives of the neighboring property owner to the west voiced concerns regarding the proposed expansion to the building, including noise, maintenance, and drainage concerns with the addition, as well as potential impact to property taxes. Based on the concerns raised at the meeting, the Committee continued the item and requested that the applicant explore other options onsite and/or provide additional information for the proposed location regarding sound levels, exhaust, and elevation drawings.

Due to a variety of factors including underground utility lines and existing mature trees, the proposed plan remains optimal for the applicant (see attached narrative). As a result, the applicant has opted to proceed with the current proposal rather than pursue a different option, and has provided the requested information (see attached).

The applicant and Staff held a meeting with the neighbor to review the proposal on June 27, 2016. The applicant presented the attached elevation drawings and discussed some changes to the proposal, including relocating the air intake from the west wall of the addition to the roof (will help minimize any noise associated with the intake) as well as re-routing all drainage from the roof to the south and east of the addition (will help minimize drainage to the neighboring property). In addition, the applicant agreed to the neighbors request to replace the existing chain link fence along the west property line with a new black chain link fence and work with the

neighbor on removing overgrown vegetation along the property line and planting new landscaping. Both requests are included as recommended conditions of approval.

The applicant has also provided noise level information for the proposed generator (see attached spec sheet and email). It is important to note that the noise level provided will be the noise level inside the structure. It is also important to note that any noise will only occur when the generator is operational during testing or power outages.

VARIANCE REQUESTED

Variance to allow reduction in the minimum setback from a Residential lot:

153.051 CONDITIONAL USES.

Within any R-1A One-Family Residential District, no structure or land shall be used for the following uses, except by conditional use permit:

(B) Essential service structures, including, but not limited to, buildings, such as telephone exchange stations, booster or pressure regulating stations, wells and pumping stations, elevated tanks, lift stations and electrical power substation **provided no building shall be located within 50 feet from any lot line of an abutting lot in an R District.** Prior to granting the permit it shall be found that the architectural design of essential service structures is compatible to the neighborhood in which it is to be located and thus will promote the general welfare;

The Zoning Ordinance requires a minimum building setback of 50 ft. from all neighboring residential properties. The applicant is requesting a side yard setback of 5' 5/16" resulting in a Variance of 44' 11/16". It should be noted that the setback of the existing building is legal non-conforming at 17 ft.

ANALYSIS

In reviewing Variance requests, the following section of the Zoning Code, Section 5.3 (1) (b-d), is utilized:

(b) Criteria for Granting a Variance. A Variance may only be granted by the Committee of Adjustments when:

- i. The Variance is in harmony with the general purpose and intent of the Ordinance;
- ii. The terms of the Variance are consistent with the Comprehensive Plan; and
- iii. The applicant for the Variance establishes that there are practical difficulties in complying with the Zoning Ordinance.

(c) Definition of Practical Difficulties. “Practical Difficulties” as used in connection with the granting of a Variance means that:

- i. The property owner proposes to utilize the Property in a reasonable manner;
- ii. The plight of the property owner is due to circumstances unique to the Property that were not created by the property owner; and
- iii. The Variance will not alter the essential character of the neighborhood.

(d) Restrictions on Granting Variances. The following restrictions shall be applied when considering granting a Variance:

- i. Economic considerations alone do not constitute practical difficulties.
- ii. The Committee of Adjustments may not permit as a Variance any Use that is not allowed in the Zoning Ordinance for Property in the district where the affected person’s land is located (i.e. a Use Variance).

REVIEW

The existing structure has been in operation for 65 years, therefore the structure predates the 50-foot setback requirement. As mentioned, the existing structure is currently setback 17 ft. to the west property line (considered the side yard) and 50 ft. to the north property line (considered the rear yard). The proposed addition extends the existing structure 11.5 ft. to the west. As noted in the attached narrative provided by the applicant, the applicant considered a number of other options for locating the generator on-site including the original proposal to locate the generator outdoors in the rear yard (north of the structure). However, a number of factors led the applicant to the proposal currently under review including utility line locations, ground slope, tree coverage and the impact (more noise) of locating a structure outside of the existing structure.

The existing property presents constraints locating the generator elsewhere on the property, including the location of the existing structure in relation to underground utility lines serving the structure, topography, and tree coverage. In addition, the proposed setback is consistent with the side yard setbacks for homes in the R1 District and the proposed addition will mimic a single family home.

Staff is recommending conditions of approval to both the Variance and the Conditional Use Permit to help mitigate any impact that the proposed addition has to neighboring property owners. The recommended conditions include the replacement of the existing chain link fence along the west property line, landscape work along the west property line, limiting monthly testing of the generator to daytime hours, and requiring that the applicant address any noise complaints determined to be a public nuisance.

Staff does not feel that the request is detrimental to the public nor does it present inconsistency with the Comprehensive Plan. Staff believes that the applicant is proposing to utilize the property in a reasonable manner (by mimicking the structure as a single family home and adhering to the single family home setback requirement in the R1 District) and that the practical difficulties are unique to the property. As a result, the proposed request should not alter the essential character of the neighborhood.

STAFF RECOMMENDATION

Based on the above comments, Staff recommends APPROVAL of the VARIANCE to allow 5' 5/16" setback for a building addition to the west property line (variance of 44' 11/16"):

1. The Variance is contingent upon approval of the corresponding Conditional Use Permit Application.
2. The applicant shall apply for applicable building permits. The proposed addition shall be constructed according to the submitted plans.
3. Testing of the proposed generator shall be conducted during daylight hours.
4. Should noise levels resulting from the proposed generator create a public nuisance as determined by the Zoning Administrator, the applicant shall work with Staff to mitigate the noise issues.
5. The applicant shall replace the existing 4-foot chain link fence with a new black vinyl coated 4-foot chain link fence from the southwest corner of the proposed addition west to the west property line and then extending north along the west property line to the northwest corner of the property.
6. The applicant shall work with the neighboring property owner to the west in removing overgrown vegetation and planting new landscaping. Said landscape improvements shall be approved by the Zoning Administrator.

FINDINGS OF FACT

A proposed Resolution adopting findings of fact for the Variance is attached for your consideration.